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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,640	10/25/2001	Michael D. Kupfer	SUN1P722/P5658	1409
22434	7590	04/25/2006	EXAMINER	
BEYER WEAVER & THOMAS LLP			KIM, JUNG W	
P.O. BOX 70250			ART UNIT	
OAKLAND, CA 94612-0250			PAPER NUMBER	

2132

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/014,640

Applicant(s)

KUPFER, MICHAEL D.

Examiner

Jung W. Kim

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

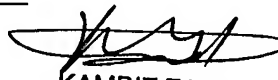
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2, 7-13, 19-23, 25, 26 and 30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


KAMBIZ ZAND
PRIMARY EXAMINER

Continuation Sheet

Continuation of 3. NOTE: the new limitations of claim 23 require further search and consideration; as amended, the features as recited together in the claim represent new issues. The subject matter added to amended claim 23 further represents new issues to dependent claims 2, 7-13, 22, 26 and 30.

Continuation of 11. NOTE: in reply to applicant's argument that Borr does not teach or suggest "identifying a region of the file which would be affected by changing the size of the file when it is determined that a mandatory Byte-Range lock has been associated with the file," examiner respectfully disagrees. A Byte-Range lock on a file induces other compliant applications to refrain from reading from or writing to a specified byte-range. As indicated in the final action in paragraph 24, mailed on 2/16/06, any create, delete or write operation is a request to change the size of the file. In regards to a write operation, the invention of Borr necessarily identifies the region affected by the write operation to judge whether the write operation is compliant with a file having a Byte-Range lock on a portion of the file.

In reply to applicant's argument that Borr does not teach or suggest "receiving a request for changing the size of a file and determining whether the request was made by an owner of the lock that has been effectively implemented by a file-system independent component of the operating system, so that the changing of the size operation can be allowed if the request has been made by the owner of the file,"

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examiner respectfully disagrees. The owner of the file is the entity that places any locks on the file and hence is the owner of the lock on the file. Thus the owner of the file has access to the locked file.

In reply to applicant's argument that Samba 2.0 does not teach or suggest "a file system independent component that effectively implements locks for a file system that does not provide mandatory locks," examiner respectfully disagrees. Samba is a suite of UNIX applications that "speak the SMB protocol" ... [b]y supporting this protocol, Samba allows UNIX servers to get in on the action, communicating with the same networking protocol as Microsoft Windows products." (Samba 2.0, pg. 2, "What is Samba?") In other words, Samba (a suite of UNIX application-hence a file-system independent component) enables UNIX servers (which does not provide mandatory locks) to implement locks to allow proper interoperation with WINDOW servers (which uses locks)

For these reasons, applicant's arguments are not persuasive; the claims remain rejected under the prior art of record.



April 24, 2006

Jung W Kim
Examiner
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